

## PATENT COOPERATION TREATY

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1227P001A(PC)	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/US04/32897	International filing date (day/month/year) 06 October 2004 (06.10.2004)	Priority date (day/month/year) 06 October 2003 (06.10.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): A61B 18/18; A61B 19/00; A61M/51 and US CL: 606/5; 606/4; 606/6; 604/51; 623/905			
Applicant CRS & ASSOCIATES			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_ sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☐ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☐ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand

25 July 2005 (25.07.2005)

Date of completion of this report

21 December 2005 (21.12.2005)

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# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/32897

## Box No. I Basis of the report

1. With regard to the language, this report is based on:

- ☒ the international application in the language in which it was filed.
- ☐ a translation of the international application into English, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- ☒ the international application as originally filed/furnished
- ☒ the description:
- pages 1-17 as originally filed/furnished
- pages\* NONE received by this Authority on 13 December 2004 (13.12.2004)
- pages\* NONE received by this Authority on 13 December 2004 (13.12.2004)
- ☒ the claims:
- pages 18-21 as originally filed/furnished
- pages\* NONE as amended (together with any statement) under Article 19
- pages\* NONE received by this Authority on \_\_\_\_\_
- pages\* NONE received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- pages 1-9 as originally filed/furnished
- pages\* NONE received by this Authority on \_\_\_\_\_
- pages\* NONE received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/figs NONE
- ☒ the sequence listing (*specify*): NONE
- ☒ any table(s) related to the sequence listing (*specify*): NONE

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to the sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/US04/32897

## Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims <u>26 AND 28-31</u>	YES
	Claims <u>1-4, 6 AND 7</u>	NO
Inventive Step (IS)	Claims <u>26 AND 28-31</u>	YES
	Claims <u>1-25 AND 27</u>	NO
Industrial Applicability (IA)	Claims <u>1-31</u>	YES
	Claims <u>NONE</u>	NO

### 2. Citations and Explanations (Rule 70.7)

Claims 1-4, 6-7 lack novelty under PCT Article 33(2) as being anticipated by Lin 6,258,082. Lin discloses the invention as currently claimed comprising methods for enhancing ocular accommodation by making a pre-determined biomechanical alteration of the subjects corneal structure outside of an optical zone of the cornea; and using the biomechanical alteration to create an inflection region in the corneal structure, resulting in enhanced corneal accommodative power. See col. 2, lines 63-64; col. 3, lines 15-18, lines 40-42; col. 5, line 66-67.

Claims 5, 8-25 and 27 lack an inventive step under PCT Article 33(3) as being obvious over Lin in view of Schachar. Lin has been disclosed above and while Lin does teach that implants have been used in the past with laser surgery, Lin does not specify the types of implants. Schachar teaches that implanting devices within the eye can treat eye disorders. It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the currently claimed methods of measuring the eye topography and making bio-mechanical alterations with an implant because this would further support patients eyes for the permanent correction of presbyopia.

Claims 26 and 28-31 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest using a rasterstereographic device.

Claims 1-31 meet the criteria set forth in PCT Article 33(4) because the claimed subject matter can be made and/or used in industry.

----- NEW CITATIONS -----